

# MICHIGAN STATE MEDICAL SOCIETY

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Testimony for Public Hearing  
Senate Transportation Committee  
May 22, 2012

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Good afternoon. I am Doctor Marianna Spanaki, Senior Staff Neurologist with the Henry Ford Health System. I am also the Director of the Henry Ford Comprehensive Program and Associate Professor of Neurology at Wayne State University.

Mr. Chairman and Members of the Transportation Committee, I would like to thank you (Chairman Casperson) for the opportunity to speak in support of Senate Bill 402 and 403.

I would like to thank Senator Schuitmaker for sponsoring this important legislation.

## **Facts:**

Michigan is one of 18 states which do not protect physicians from 3<sup>rd</sup> party liability if they have filled out a report "certifying" a patient with "episodes" \* as episode free for a period of six months or more. Patients who have lost their driving privileges should be evaluated by the MI Dept of State in order to resume driving privileges. The MI Dept of State seeks physician's assistance in assessing whether a patient is capable of driving (form DI-4P). After filling out the form, physicians can be held liable (responsible) under the "special relationship" exception to the general rule that a person does not owe a duty of care to others. If a doctor-patient relationship exists and the potential that the patient's condition could cause a risk of harm, and that risk is not so rare or unusual then the physician has a duty of care to third persons. Therefore, legal action can be brought against physicians for a breach of duty of care owed to the public even if they warned and documented their patients about driving law.

If physicians have concerns about their patients' fitness to drive, they may choose to fill out the "Request for Driver Evaluation" (OC-88). However, under current law physicians do not have legal protection for violating patient –physician confidentiality

**Senate Bill 402** would offer the following provisions to the Health Code

- The physician has no obligation but has the option to voluntarily report to the SOS or warn third parties about a pt's mental or physical condition that should disqualify the patient from driving
- The physician who chooses not to make a report is immune from any criminal or civil liability to the patient or third party that may have been injured by the patient's actions
- Similarly, the physician who makes the report in good faith and exercises due care as evidenced by documentation in the medical record is immune from any civil or criminal action

**Senate Bill 0403**

- Allows the Secretary of State to consider a written medical opinion and recommendation from a physician regarding their patient's physical and mental qualifications
- Each report received by the Secretary of State from a physician is confidential.
  1. As health care providers we are dealing with a number of medical conditions that impair fitness to drive.
  2. We strongly believe that we have responsibility for providing the best care and ensure the patients' safety as well as public safety.
  3. We also understand the importance of the physician-patient relationship and that confidentiality is the cornerstone of this relationship.

For all these reasons we support SB 402 and 403 that grants immunity from choosing to report or not report as long as the decisions are made with good faith.

It is fair and logical to reevaluate MI Driving Law and model it after other States' Laws. It is reasonable to support driving laws that facilitate physician-patient interaction and ensure patients' and public safety.

In the end, I feel these bills, if enacted into law, give those of us in the medical profession the best possible way of dealing with what is understandably a complicated issue.

I thank the committee for looking at these bills, and respectfully ask that you lend your support to them.

I want to thank Chairman Casperson and the committee members for your time and if you have any questions I would be more than pleased to answer those at this time.

Thank you.